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June 3

General Frank D. Merrill, Commissioner,
Department of Public Works and Highways
State House Annex

Dear General Merrill:

You have requested an opinion concerning the authority of a state institution to employ an architect for the purpose of preparing preliminary sketches and estimates for a proposed item to be submitted in a capital budget. In my opinion no state institution has authority to enter into such a contract of employment. The cost of preparing preliminary sketches and estimates for a proposed capital improvement would, in the event of the subsequent development of the capital item, constitute part of its cost. It is consequently my opinion that the cost of such services, whether or not the facility should actually be constructed, is in itself a capital expense, which no department is authorized to incur in the absence of appropriation for the purpose.

Furthermore, Part 9 of the Reorganization Act of 1950 clearly indicates the legislative intent to vest in the Department of Public Works and Highways all governmental functions pertaining to development of capital improvements. Particular reference is made to s. 12, s. 14, IV, and s. 15, III and VI, for provisions intended to effect this policy.

I believe the foregoing references, by vesting in the Department of Public Works and Highways the broad and comprehensive supervision of capital construction, commencing with long-range planning and ending with supervision of execution, adequately negative the existence of any such authority in any other department or institution.

Very truly yours,

Maurice M. Blodgett
Deputy Attorney General

MMB:HP